

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

RUBEN ESCANO,

Plaintiff,

v.

No. 2:21-cv-223 MV/GJF

CONCORD AUTO PROTECT, INC.,
FOREVERCAR, LLC, LIBERTY MUTUAL
GROUP, INC., LIBERTY MUTUAL AUTO
AND HOME SERVICES, LLC, ALON
SALMAN, and DOES 1-10 INCLUSIVE AND
ALL OF THEM,

Defendants.

ORDER ON REMAND

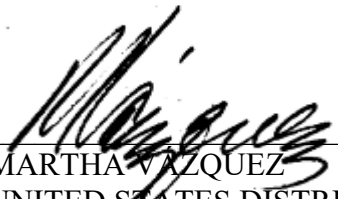
This matter comes before the Court on the Order and Judgment entered by the Tenth Circuit on July 21, 2023 (“Tenth Circuit Order”) (Doc. 116-1), in which the Tenth Circuit affirmed in part and reversed in part this Court’s dismissal of Plaintiff Ruben Escano’s entire case with prejudice, as set forth in its Order Adopting Chief Magistrate Judge’s Proposed Findings and Recommended Disposition (“Order of Dismissal”) (Doc. 105), entered on July 14, 2022. Relevant here, the Tenth Circuit held that this Court abused its discretion in dismissing Mr. Escano’s claims against Concord Auto Protect, Inc. (“Concord”) for failure to prosecute and erroneously found that Concord had not been served in this action. Doc. 116-1 at 10-11. For these reasons, the Tenth Circuit reversed the dismissal of Mr. Escano’s claims against Concord and remanded for this Court “to conduct further proceedings on those claims.” *Id.* at 11.

Between the filing of his Notice of Appeal (Doc. 107) on August 12, 2022 and the entry of the Tenth Circuit Order, however, on July 7, 2023, Mr. Escano filed a Notice of Dismissal of Defendants Concord Auto Protect, Inc. and Alon Salman (“Notice”). Doc. 115. In the Notice,

Mr. Escano dismissed Concord and Mr. Salman from this action without prejudice. *Id.* As a result of the Notice, Concord no longer remains a party to this action. It follows that Mr. Escano's claims against Concord are no longer properly before this Court for further consideration.

Consistent with the Tenth Circuit Order and the Notice, this Court will enter a separate judgment reflecting that Mr. Escano's claims against Concord are dismissed from this action without prejudice.

Dated: August 30, 2023



MARTHA VAZQUEZ
UNITED STATES DISTRICT JUDGE